

IN THE MATTER OF:	*	BEFORE THE MARYLAND
TURBO TITLE LOAN COMPANY	*	COMMISSIONER OF
a/k/a TURBO TITLE LOAN,	*	FINANCIAL REGULATION
a/k/a TURBOTITLELOAN.COM	*	
	*	
Respondent	*	DFR-EU-2010-104
* * * * *		

SUMMARY ORDER TO CEASE AND DESIST
AND ORDER TO PRODUCE

WHEREAS the Maryland Department of Labor, Licensing and Regulation, Office of the Commissioner of Financial Regulation (the “Division”), undertook an investigation into the business activities of Turbo Title Loan Company, a/k/a Turbo Title Loan, a/k/a TurboTitleLoan.com (the “Respondent”); and

WHEREAS, as a result of that investigation, the Commissioner of Financial Regulation (the “Commissioner”) finds grounds to allege that Respondent has violated Commercial Law Article (“CL”), Title 12, Subtitle 3, Annotated Code of Maryland, and Financial Institutions Article (“FI”), Title 11, Subtitle 2, Annotated Code of Maryland (collectively the “Maryland Consumer Loan Law,” or “MCLL”); and the Commissioner finds that action under FI §§ 2-115(a) and 11-215(b) is appropriate.

NOW, THEREFORE, the Commissioner has determined, for the reasons set forth below, that Respondent’s business activities constitute usurious and unlicensed consumer lending in violation of Maryland law, and that it is in the public interest that Respondent immediately Cease and Desist from making any loans to Maryland consumers:

1. FI §§ 2-115(a) and (b) set forth the Commissioner's authority to issue summary cease and desist orders, and to take additional actions for violations of laws, regulations, rules, and orders over which the Commissioner has jurisdiction [in addition to taking any other action permitted by law, and subject to a hearing or waiver of hearing], providing as follows:

(a) *Summary cease and desist orders.*- When the Commissioner determines that a person has engaged in an act or practice constituting a violation of a law, regulation, rule or order over which the Commissioner has jurisdiction, and that immediate action against the person is in the public interest, the Commissioner may in the Commissioner's discretion issue, without a prior hearing, a summary order directing the person to cease and desist from engaging in the activity, provided that the summary cease and desist order gives the person:

(1) Notice of the opportunity for a hearing before the Commissioner to determine whether the summary cease and desist order should be vacated, modified, or entered as final; and

(2) Notice that the summary cease and desist order will be entered as final if the person does not request a hearing within 15 days of receipt of the summary cease and desist order.

(b) *Other authorized actions for violations.*- When the Commissioner determines after notice and a hearing, unless the right to notice and a hearing is waived, that a person has engaged in an act or practice constituting a violation of a law, regulation, rule or order over which the Commissioner has jurisdiction, the Commissioner may in the Commissioner's discretion and in addition to taking any other action authorized by law:

(1) Issue a final cease and desist order against the person;

(2) Suspend or revoke the license of the person;

(3) Issue a penalty order against the person imposing a civil penalty up to the maximum amount of \$1,000 for a first violation and a maximum amount of \$5,000 for each subsequent violation; or

(4) Take any combination of the actions specified in this subsection.

2. FI §§ 2-114(a) and (b) set forth the Commissioner's general authority to order the production of information, as well as documents and records, while investigating potential violations of laws, regulations, rules, and orders over which the Commissioner has jurisdiction [which is in addition to the Commissioner's specific investigatory authority set forth in various other Maryland statutes and regulations]. Thus, for example, FI § 2-114(a)(2) provides that the Commissioner may "[r]equire ... a person to file a statement in writing, under oath or otherwise as the Commissioner determines, as to all the facts and circumstances concerning the matter to be investigated." Further, pursuant to FI § 2-114(b), "the Commissioner or an officer designated by the Commissioner may," among other things, "take evidence, and require the production of books, papers, correspondence, memoranda, and agreements, or other documents or records which the Commissioner considers relevant or material to the inquiry."

3. In the present matter, the Division began an investigation into the business activities of Respondent as a result of a consumer complaint. Pursuant to the Division's preliminary inquiry into this complaint, the Division developed reasonable grounds to believe that Respondent engaged in unlicensed and predatory business practices in violation of various provisions of Maryland Law, including, but not limited to, the Maryland Consumer Loan Law. The legal and factual bases for these determinations are described below.

4. Pursuant to FI § 11-204, "[u]nless a person is licensed by the Commissioner, the person may not: (1) [m]ake a loan"

5. Pursuant to CL § 12-302, a “person may not engage in the business of making loans under this subtitle unless the person is licensed under or is exempt from the licensing requirements of Title 11, Subtitle 2 of the Financial Institutions Article, Annotated Code of Maryland, known as the Maryland Consumer Loan Law -- Licensing Provisions.”

6. Pursuant to CL § 12-301(c), a “lender” “means a person who makes a loan under [Title 12, Subtitle 3 of the Commercial Law Article].”

7. Pursuant to CL § 12-301(e), a “loan” “means any loan or advance of money or credit made under [Title 12, Subtitle 3 of the Commercial Law Article].”

8. False advertising by lenders is prohibited by CL § 12-304(a), which provides as follows: “[a] lender may not directly or indirectly print, publish, distribute, or broadcast any false, misleading, or deceptive statement regarding the rates, terms, or conditions of a loan.”

9. CL § 12-306 specifies the maximum interest rates which a lender is permitted to charge on a loan under Title 12, Subtitle 3 of the Commercial Law Article. Section 12-306(a)(6)(i) provides as follows: “For any loan with an original principal balance of \$2,000 or less, 2.75 percent interest per month on that part of the unpaid balance not more than \$1,000 and 2 percent interest per month on that part of the unpaid principal balance that is more than \$1,000.” This section, therefore, permits a lender to charge a maximum annual interest rate of 33 percent interest on unpaid principal balances up to \$1,000, and 24 percent on unpaid principal balances over \$1,000. Section 12-306(a)(6)(ii) provides: “For any loan with an original principal balance of more than \$2,000, the maximum rate of interest is 2 percent per month on the unpaid principal

balance of the loan.” This section only permits a lender to charge a maximum annual interest rate of 24 percent on the unpaid principal balance of the loan.

10. For loans subject to the MCLL which are secured by personal property, including loans secured by automobiles, CL § 12-306(a)(7)(iii) requires the following: “[u]pon the borrower’s default, if the loan is secured by personal property, [that] the lender complies with § 12-115 of this title concerning repossession and redemption of the goods securing the loan.” In turn, CL § 12-115 provides, in relevant part, as follows:

* * *

(c) *Notice prior to repossession - Contents.-*

(1) At least 10 days before he repossesses any goods, a lender may serve a written notice on the borrower of his intention to repossess the goods.

(2) The notice shall:

(i) State the default and any period at the end of which the goods will be repossessed; and

(ii) Briefly state the rights of the borrower in case the goods are repossessed.

(d) *Same - Service.-* The notice may be delivered to the borrower personally or sent to him at his last known address by registered or certified mail.

(e) *Notice after repossession.-* Within 5 days after he repossesses the goods, the lender shall deliver to the borrower personally or send to him at his last known address by registered or certified mail, a written notice which briefly states:

(1) The right of the borrower to redeem the goods, and the amount payable for them;

(2) The rights of the borrower as to a resale, and his liability for a deficiency; and

(3) The exact location where the goods are stored and the address where any payment is to be made or notice delivered.

(f) *Required period for lender to retain goods.-* For 15 days after the lender gives the notice required by subsection (e) of this section, the lender shall retain any repossessed goods.

(g) *Rights of borrower during period provided in subsection (f).-* During the period provided for in subsection (f) of this section, the borrower may:

- (1) Redeem and take possession of the goods; and
- (2) Resume the performance of the agreement.
- (h) *Redemption.*- To redeem the goods, the borrower shall:
 - (1) Tender the amount due under the agreement at the time of redemption, without giving effect to any provision which allows acceleration of any installment otherwise payable
 - (2) Tender performance of any other promise for the breach of which the goods were repossessed; and
 - (3) If the discretionary notice provided for in subsection (c) of this section was given, pay the actual and reasonable expenses of retaking and storing the goods.

* * *

11. Interest on unpaid loan balances and computation of interest are discussed in CL §§ 12-306(b) and 12-306(d), respectively, which state the following:

(b) *Interest on balance unpaid after original maturity date.*- If any principal balance remains unpaid 6 months after the loan matures as originally scheduled or deferred, the lender may not contract for, charge, or receive interest at a rate exceeding 6 percent simple interest per annum on the actual unpaid principal balances from time to time.

* * *

(d) *Computation of interest.*-

- (1) The lender shall compute interest on the actual unpaid principal balances outstanding from time to time, and he may not contract for, charge, or receive interest in advance or compounded interest.
- (2) For each day on which an unpaid principal balance is outstanding, the lender may charge on that unpaid balance 1/30th of the interest permitted under this subtitle to be charged for 1 month.

* * *

12. CL § 12-307 ("Collection of certain fees") provides, in relevant part, as follows:

(a) *In general.*- At the time a loan is made, a lender may collect from the borrower:

- (1) As to any item of the total property that secures a loan:
 - (i) The fees paid to a public official or governmental agency for recording or satisfying a mortgage, encumbrance, or lien on any property securing the loan; or

* * *

(b) *Bad check fee.*- A lender may collect from the borrower a fee not exceeding \$15 if payment is made with a check that is dishonored on the second presentment.

13. Pursuant to CL § 12-307.1, lenders are limited in the amount of attorney's fees and court costs that they are permitted to charge and collect:

(a) *Lender may collect court costs and attorney's fees from borrower.*- On any loan with an original principal balance of more than \$2,000, if a borrower defaults under the terms of a loan and the lender refers the borrower's account for collection to an attorney who is not a salaried employee of the lender, and if the note, contract, or other evidence of the loan permits, the lender may charge and collect from the borrower court costs and attorney's fees not exceeding 15 percent of the amount due and payable under the terms of the loan.

(b) *Same - Loans of \$2,000 or less.*- On any loan with an original principal balance of \$2,000 or less, if a borrower defaults under the terms of a loan and the lender refers the borrower's account for collection to an attorney who is not a salaried employee of the lender, and if the note, contract, or other evidence of the loan permits, the lender may recover from the borrower court costs and attorney's fees not exceeding 15 percent of the amount due and payable under the terms of the loan, to be set by the court in the event of the filing of suit.

14. CL § 12-308 sets forth various duties that lenders have towards borrowers, including, but not limited to, the duty to provide a statement containing specific language and provisions at the time the loan is made (CL § 12-308(a)), the duty to provide receipts for payments (CL § 12-308(b)), the obligation to permit prepayment of the loan, in full or in part, without penalty (CL § 12-308(c)), the duty to provide specific documents after full repayment of the loan (CL § 12-308(d)), and the duty to provide a written statement of the account upon request from the borrower (CL § 12-308(e)).

15. Pursuant to CL § 12-313(a)(1), a lender may not “[d]irectly or indirectly contract for, charge, or receive any interest, discount, fee, fine, commission, charge, brokerage, or other consideration in excess of that permitted by this subtitle.”

16. CL § 12-314 provides, in relevant part, as follows:

(a) *Prohibited.* – A person may not lend \$6,000 or less if the person directly or indirectly contracts for, charges, or receives a greater rate of interest, charge, discount, or other consideration than that authorized by the laws of this State.

(b) *Loans unenforceable; exceptions.* –

(1) A loan made in the amount of \$6,000 or less, whether or not the loan is or purports to be made under this subtitle, is unenforceable if a rate of interest, charge, discount or other consideration greater than that authorized by the laws of this State is contracted for by any person unless the excess rate contracted for is the result of a clerical error or mistake and the person corrects the error or mistake before any payment is received under the loan.

(2) The person who is neither a licensee nor exempt from licensing may not receive or retain any principal, interest, or other compensation with respect to any loan that is unenforceable under this subsection.

* * *

(c) *Transactions made in another state.* – This section does not apply to a loan transaction validly made in another state in compliance with a similar loan law of that state. However, a lender may not collect an amount that is more than the total amount that would be permitted if this subtitle were applicable. This section applies to all loans made by a lender domiciled in another state to a borrower who is a resident of this State if the application for the loan originated in this State.

17. Pursuant to CL § 12-315, the provisions of Title 12, Subtitle 3 “shall be interpreted and construed to effectuate its general remedial purpose.”

18. FI § 11-214 discusses the Commissioner's investigatory powers under the MCLL, providing as follows:

(a) *Persons subject to investigation.*- To discover any violations of the Maryland Consumer Loan Law, the Commissioner, at any time and as often as the Commissioner considers appropriate, may investigate the loans made by and the business of:

(1) Any licensee; or

(2) Any other person who makes a loan or on whose behalf a loan is made, whether or not that person:

(i) Acts or claims to act as a principal, agent, or broker; or

(ii) Acts or claims to act under the Maryland Consumer Loan Law.

(b) *Access; examination under oath.*- For the purposes of this section, the Commissioner:

(1) Shall be given access to any books, papers, records, safes, or vaults of the person under investigation; and

(2) May examine under oath any person whose testimony the Commissioner requires.

19. On or about September 21, 2009, the Division received a complaint related to an "auto title loan" which Respondent had entered into with a Maryland resident. The loan documents were titled as "Installment Loan and Security Agreement."

20. Respondent is an Illinois company that advertises its lending services on the internet at <http://turbotitleloan.com/>, including to residents of Maryland. Consumer A, who is a Maryland resident, applied for a loan from the Respondent by completing and submitting an on-line loan application while he was located in Maryland. Consumer A believed that he was entering into a loan with an annual interest rate of 15%, as was advertised on Respondent's web site.

21. Pursuant to its agreement with Consumer A, which was entered into on or about July 21, 2009, Respondent provided a \$2,000 loan to Consumer A, plus a \$20 fee, for a total principal balance of \$2,020, in exchange for which consumer A was required

to make 12 monthly payments of \$438.13, for a total payment of \$5,257.56. This constitutes an annual interest rate of 260% (although the loan documents indicate that the rate is 228%). Further, collateral for the loan was the title to Consumer A's automobile, a 2004 Pontiac, which Respondent recorded as a lien against the vehicle with the Maryland Motor Vehicle Administration.

22. This transaction with Consumer A constituted a "loan" under CL § 12-301(e), and the Respondent and its "Installment Loan and Security Agreement" are subject to the MCLL, which the Commissioner is charged with enforcing.

23. Respondent is not licensed by the State of Maryland to make consumer loans, nor is it exempt from licensing under the MCLL. As such, Respondent's unlicensed consumer lending activities in Maryland violate the licensing provisions of the MCLL cited above, including FI § 11-204 and CL § 12-302.

24. The loan which Respondent made to Consumer A involved a usurious rate of interest, far in excess of the 24% annual interest rate permitted for this transaction under CL § 12-306(a)(6). As such, Respondent violated numerous provisions of the MCLL, including, but not limited to, CL §§ 12-306(a)(6), 12-313(a)(1), 12-314(a), 12-314(b)(1), 12-314(b)(2), 12-314(c).

25. Respondent's written agreement also contains various other terms which violate the provisions of the MCLL cited above, including, but not limited to, the following contract terms: authorizing the Respondent to repossess and sell the secured automobile without providing the required disclosures, notices, or otherwise adhering to the requirements set forth in CL § 12-115 (in violation of CL § 12-306(a)(7)(iii)); permitting interest to be charged on collection costs and other fees apart from the

principal of the loan (in violation of CL §§ 12-306(b), 12-306(d), 12-307.1, 12-308, 12-313(a)(1)); charging excessive late fees that are calculated as a percentage of the installment payment due, rather than as a percentage of the principal (in violation of CL §§ 12-306(b), 12-306(d), 12-307.1, 12-308, 12-313(a)(1)); collecting a “bad check fee” of \$25 (in violation of CL § 12-307(b)); charging impermissible and excessive attorneys fees and court costs (in violation of CL § 12-307.1); and charging an annual interest rate which exceeds the amount stated in the loan contract (in violation of CL § 12-308, et al.).

26. Respondent’s internet advertising also constituted false and deceptive advertising in violation of CL § 12-304(a) of the MCLL. Specifically, by advertising an interest rate of 15%, and by failing to identify the true annual interest rate, Respondent deceived Consumer A into believing that this was the annual interest rate, when in fact this was a monthly rate which corresponded to an annual rate of 180% ($15\% \times 12$ months). Moreover, even had Consumer A known that the 15% monthly rate corresponded to an annual rate of 180% (which in fact he did not know), the advertised monthly rate of 15% was still patently false as the actual annual interest rate on the loan that Consumer A received was 260% (not 180%).

27. Pursuant to CL § 12-314(b)(1), as Respondent’s loan to Consumer A contains a “rate of interest, charge, discount or other consideration greater than that authorized by the laws of this State,” Respondent’s loan to Consumer A is unenforceable. Further, pursuant to CL § 12-314(b)(2), Respondent (who is neither licensed nor exempt from licensing), “may not receive or retain any principal, interest, or other compensation with respect to any loan that is unenforceable under this subsection.” It follows that, not only is Respondent’s loan to Consumer A unenforceable, but that Respondent is

prohibited from collecting the principal amount of its loan from Consumer A or from collecting any other money related to that loan. It also follows the lien Respondent placed on Consumer A's automobile is illegal, unenforceable, and therefore does not operate as a security interest in that vehicle.

28. Pursuant to the Commissioner's authority to conduct investigations under FI §§ 2-114 and 11-214, the Commissioner issued subpoenas to Respondent on January 5, 2010, ordering it to provide all documents in their control in any way related to their lending activities pertaining to Consumer A's loan by January 19, 2010. Respondent has never produced the documents required by this subpoena, and thus is in violation of FI §§ 2-114 and 11-214. Further, Respondent, by and through its attorney, Andrew D. Ross, Esq. of Brauer & Ross, Ltd. of Chicago Heights, Illinois, stated in a letter dated January 20, 2010 (after the due date specified in the subpoena), that it would not comply with the subpoena, citing to "restrictions of the Privacy Act concerning [Consumer A's] ... loan." This knowing refusal to comply with the subpoena constitutes a willful violation of FI §§ 2-114 and 11-214.

29. Based on the foregoing facts, it has been determined that Respondent engaged in the business of making consumer loans to Maryland residents without being licensed as required by Maryland law, that Respondent has charged and received interest on the aforementioned loans in excess of the amount permitted by Maryland law, and that Respondent violated multiple other provisions of the Maryland Consumer Loan Law, all to the detriment of Maryland consumers.

WHEREFORE, having determined that immediate action is in the public interest, and pursuant to the aforementioned provisions of the Annotated Code of Maryland, it is, by the Commissioner of Financial Regulation, **HEREBY**

ORDERED that Respondents shall immediately **CEASE AND DESIST** from making unlicensed consumer, installment, or any other loans to Maryland consumers; it is further

ORDERED that Respondents shall immediately **CEASE AND DESIST** from collecting or attempting to collect on any previous made to Maryland consumers; and it is further

ORDERED that Respondents shall immediately **CEASE AND DESIST** from repossessing or attempting to repossess any automobile or any other personal property identified as security or as a security interest for the aforementioned loans to Maryland consumers; and it is further

ORDERED that Respondents shall immediately **CEASE AND DESIST** from violating the aforementioned statutory provisions of Maryland law, and that Respondents should be assessed statutory monetary penalties and ordered to provide restitution for such violations, in addition to any other sanctions or actions against Respondents permitted by law; and it is further

ORDERED that all provisions of this Summary Order to Cease and Desist, including all Orders and Notices set forth herein, also apply to all unnamed owners, partners, members, officers, and agents of the Respondent business entity named above; and it is further

ORDERED that the Resident Agent for the Respondent business entity named above shall provide a copy of this Summary Order to Cease and Desist to all unnamed owners, partners, members, officers, and agents of that Respondent business entity; and it is further

ORDERED that, within 15 days of the receipt of this Summary Order to Cease and Desist, Respondent shall provide to the Office of the Commissioner a detailed list of all loan agreements that Respondent has entered into with Maryland consumers since January 1, 2006, including the following information for each consumer: the name of the consumer; the consumer's phone number and home address; the date that the agreement with Respondent was formed; the original principal amount of the loan; the automobile identified as the security interest for the loan; whether the loan was fully repaid by the consumer, and if so, how much principal, interest, and any other fees were paid; for loans that were defaulted by the consumer, the date of default, the amount of principal, interest, and any other fees that were paid by the consumer, and identify whether the consumer's automobile was repossessed; and for loans that are current, how much principal, interest, and any other fees have been paid to date.

FURTHERMORE,

RESPONDENT IS HEREBY NOTIFIED that, pursuant to FI §§ 2-115(a) and 11-215(b), Respondent is entitled to a hearing before the Commissioner to determine whether this Summary Order to Cease and Desist should be vacated, modified, or entered as a final Order of the Commissioner; and further,

RESPONDENT IS HEREBY NOTIFIED that, pursuant to FI §§ 2-115(a), 11-215(b), and 11-518(c), this Summary Order to Cease and Desist will be entered as a final

Order of the Commissioner if Respondent does not request a hearing within 15 days of the receipt of this Summary Order to Cease and Desist; and further,

RESPONDENT IS HEREBY NOTIFIED that, pursuant to SG §§ 9-1607.1 and 10-206.1, and in accordance with SG § 10-207(b)(4), business entities are only permitted to request a hearing, and to appear at such hearing, through an attorney authorized to practice law in Maryland at the Respondent's own expense; and further,

RESPONDENT IS HEREBY NOTIFIED that any and all requests for a hearing in this matter must conform to the requirements stated above, must be made in the form of a signed, written request, and must be submitted to the following address:

Enforcement Unit, Administrator
Office of the Commissioner of Financial Regulation
500 North Calvert Street, Suite 402
Baltimore, Maryland 21202;

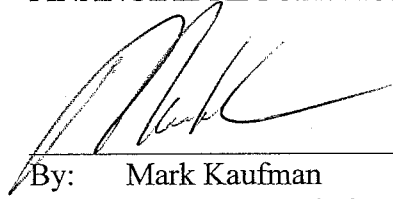
and further,

RESPONDENT IS HEREBY NOTIFIED that, pursuant to FI § 2-115(b), as a result of a hearing, or of Respondent's failure to correctly request a hearing in the manner described above, the Commissioner may, in the Commissioner's discretion and in addition to taking any other action authorized by law, enter an Order making this Cease and Desist Order final, issue a penalty order against Respondent imposing a civil penalty up to \$1,000 for each violation cited above, up to \$5,000 for each subsequent violation, or may take any combination of the aforementioned actions against Respondent. Additionally, pursuant to CL § 12-314(b), the Commissioner may also enter a final order declaring the following: that all consumer loans made by the Respondent in Maryland or otherwise involving Maryland consumers are unenforceable; that Respondent "may not receive or retain any principal, interest, or other compensation with respect to [these]

loan[s] that [are] unenforceable;" and that any liens which Respondent has placed on the automobiles or other personal property of Maryland consumers are illegal and unenforceable.

MARYLAND COMMISSIONER OF
FINANCIAL REGULATION

5/5/10
Date


By: Mark Kaufman
Deputy Commissioner